
(Original Signature of Member)

108TH CONGRESS
2D SESSION

H. R. _____

To amend the International Child Abduction Remedies Act to provide that the National Center for Missing and Exploited Children and its employees, when carrying out activities delegated by the United States Central Authority under that Act, have the protections under the Federal Tort Claims Act, to amend title 28, United States Code, to give district courts of the United States jurisdiction over competing State custody determinations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HYDE (for himself, Mr. LAMPSON, Mr. LANTOS, Mr. CHABOT, Mr. GREENWOOD, Mr. HOUGHTON, Mr. McHUGH, Mr. WOLF, Mr. BURTON of Indiana, Ms. HARRIS, Mr. FOLEY, Mr. KING of New York, Ms. JACKSON-LEE of Texas, Mr. GREEN of Texas, Mr. BOEHLERT, Mr. SHIMKUS, Mr. BERMAN, and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on

A BILL

To amend the International Child Abduction Remedies Act to provide that the National Center for Missing and Exploited Children and its employees, when carrying out activities delegated by the United States Central Authority under that Act, have the protections under the Fed-



eral Tort Claims Act, to amend title 28, United States Code, to give district courts of the United States jurisdiction over competing State custody determinations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

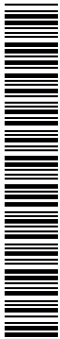
3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Assist-
5 ance to Missing and Exploited Children Act of 2004”.

6 **SEC. 2. APPLICABILITY OF FEDERAL TORT CLAIMS PROVI-**
7 **SIONS TO NATIONAL CENTER FOR MISSING**
8 **AND EXPLOITED CHILDREN AND ITS EM-**
9 **PLOYEES.**

10 Section 7 of the International Child Abduction Rem-
11 edies Act (42 U.S.C. 11606) is amended by adding at the
12 end the following new subsection:

13 “(f) LIMITED LIABILITY OF ENTITIES REGARDING
14 DELEGATED AUTHORITY.—For purposes of section
15 1346(b)(1) and chapter 171 of title 28, United States
16 Code, the National Center for Missing and Exploited Chil-
17 dren, when carrying out responsibilities of the United
18 States Central Authority under this Act, pursuant to a
19 delegation of authority by the Central Authority, and any
20 other entity to whom such responsibilities are delegated
21 by the Central Authority, when carrying out such respon-
22 sibilities, shall be deemed to be part of the Department



1 of State, and any employee of the Center or such entity,
2 while acting within the scope of his or her employment
3 in carrying out such delegated responsibilities, shall be
4 deemed to be an employee of the Government.”.

5 **SEC. 3. JURISDICTION OVER COMPETING STATE CUSTODY**
6 **ORDERS.**

7 Section 1738A of title 28, United States Code, is
8 amended by adding at the end the following:

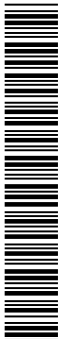
9 “(i) If a court of one State makes a child custody
10 determination in accordance with subsection (c) and if
11 that determination is in conflict with a determination
12 made by another State in accordance with subsection (c),
13 a contestant for whom such a determination was made
14 may bring an action in the district court of the United
15 States the district of which includes the resident of such
16 contestant to determine which determination shall pre-
17 vail.”.

18 **SEC. 4. NATIONAL REGISTRY OF CUSTODY ORDERS.**

19 (a) IN GENERAL.—The Attorney General shall estab-
20 lish a national child custody and visitation registry in
21 which shall be entered—

22 (1) certified copies of custody and visitation or-
23 ders made by courts throughout the United States;

24 (2) information identifying pending proceedings
25 in courts throughout the United States for orders



1 described in paragraph (1), and for modification or
2 enforcement of those orders; and

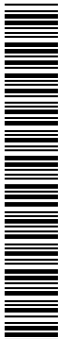
3 (3) information identifying proceedings filed in
4 any court in the United States pursuant to the
5 Hague Convention on the Civil Aspects of Inter-
6 national Child Abduction and the International
7 Child Abduction Remedies Act, and resulting orders.

8 (b) COOPERATION.—The Attorney General shall seek
9 the cooperation of the Federal courts and the courts of
10 each State and the District of Columbia in providing rel-
11 evant information to the registry on an ongoing basis. The
12 Attorney General shall provide such financial and tech-
13 nical assistance as necessary to carry out subsection (a).

14 (c) DISCLOSURE OF INFORMATION IN REGISTRY.—

15 (1) DISCLOSURE.—Upon request filed in ac-
16 cordance with paragraph (3), by a court, law en-
17 forcement official, or a contestant of child custody or
18 his or her legal representative, the Attorney General
19 shall provide information in the Registry to that
20 court, official, contestant, or representative.

21 (2) NONDISCLOSURE.—Information in the Reg-
22 istry shall not be disclosed to any person if the At-
23 torney General has reasonable cause to believe,
24 based upon notice by a State or otherwise, that the
25 disclosure of the information could be harmful to the



1 custodial parent of a child or that child, except that
2 such information may be disclosed to a court or an
3 agent of a court, if—

4 (A) upon receipt of information from the
5 Secretary, the court determines whether disclo-
6 sure to any other person of that information
7 could be harmful to the parent or the child; and

8 (B) if the court determines that disclosure
9 of such information to any other person could
10 be harmful, the court and its agents shall not
11 make any such disclosure.

12 (3) FORM AND MANNER OF REQUEST FOR IN-
13 FORMATION.—A request for information under this
14 subsection shall be filed in such manner and form as
15 the Attorney General shall by regulation prescribe
16 and shall be accompanied or supported by such doc-
17 uments as the Attorney General may determine to
18 be necessary.

19 **SEC. 5. DETENTION OF CHILDREN IN CERTAIN CIR-**
20 **CUMSTANCES.**

21 (a) DETENTION OF CHILDREN.—Law enforcement
22 officials of any State or local government or the Federal
23 Government may detain—



1 (1) any child listed under any category of the
2 Missing Person File by the National Crime Informa-
3 tion Center, and

4 (2) any child accompanying an adult who is ar-
5 rested for suspected abduction of the child in viola-
6 tion of a child custody order,

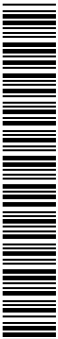
7 for purposes of allowing the lawful determination of the
8 proper disposition of the child in accordance with the most
9 recent valid custody determination applicable to the child.

10 (b) INTERIM CUSTODY.—Upon detaining a child
11 under subsection (a), the law enforcement officials in-
12 volved shall ensure that the child is surrendered, at the
13 earliest practicable time, to the appropriate State child
14 protective services agency or child welfare agency.

15 **SEC. 6. INTERNATIONAL CHILD ABDUCTION REMEDIES.**

16 (a) LEGAL ASSISTANCE FOR VICTIMS OF PARENTAL
17 KIDNAPPING; TRAINING AND TECHNICAL ASSISTANCE.—
18 Section 7 of the International Child Abduction Remedies
19 Act (42 U.S.C. 11606), as amended by section 2 of this
20 Act, is further amended by adding at the end the following
21 new subsections:

22 “(g) GRANTS FOR LEGAL ASSISTANCE FOR VICTIMS
23 OF PARENTAL KIDNAPPING; TRAINING AND TECHNICAL
24 ASSISTANCE.—



1 “(1) FUNDING FOR LEGAL ASSISTANCE; TRAIN-
2 ING AND TECHNICAL ASSISTANCE.—The United
3 States Central Authority shall establish a program—

4 “(A) to provide funding to legal services
5 providers, including private attorneys, public of-
6 ficials acting pursuant to the Uniform Child
7 Custody Jurisdiction and Enforcement Act,
8 legal aid programs, and law school clinical pro-
9 grams, to provide direct legal or advocacy serv-
10 ices on behalf of persons seeking remedies
11 under the Convention, or other civil or criminal
12 remedies in interstate or international parental
13 kidnapping cases; and

14 “(B) to provide training and technical as-
15 sistance to legal services providers, State court
16 judges, and law students on the civil and crimi-
17 nal laws pertaining to interstate and inter-
18 national parental kidnapping, in order to im-
19 prove the capacity to provide legal assistance
20 described in paragraph (1) and adjudicate cases
21 involving remedies described in such paragraph.

22 “(2) PROVISION OF TRAINING.—The United
23 States Central Authority may carry out subpara-
24 graph (B) of paragraph (1) directly or through
25 grants to appropriate nonprofit organizations, State



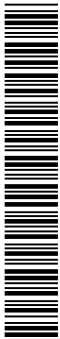
1 judicial educators, national, State, and local bar as-
2 sociations, and law schools. The United States Cen-
3 tral Authority shall require recipients of such grants
4 to report on the training programs they present, in-
5 cluding the number of participants.

6 “(h) CONSOLIDATION OF JURISDICTION OF
7 COURTS.—The United States Central Authority shall en-
8 courage the Chief Justice of each State and the District
9 of Columbia to designate a single court, or a limited num-
10 ber of courts, in which cases brought under the Conven-
11 tion may be heard. The Central Authority may provide
12 technical assistance (including computers and Internet ac-
13 cess) as necessary to foster consolidation of jurisdiction
14 and implementation of the Convention, consistent with the
15 purposes of the Convention.

16 “(i) AUTHORIZATION OF APPROPRIATIONS.—In addi-
17 tion to any other funds made available to carry out this
18 Act, there are authorized to be appropriated to the United
19 States Central Authority such sums as may be necessary
20 to carry out subsections (g) and (h).”.

21 (b) EXEMPTION FROM COURT COSTS.—Section 8(b)
22 of the International Child Abduction Remedies Act (42
23 U.S.C. 11607(b)) is amended—

24 (1) by redesignating paragraphs (2) and (3) as
25 paragraphs (3) through (4), respectively;



1 (2) by striking paragraph (1) and inserting the
2 following:

3 “(1) No court costs may be assessed on a peti-
4 tioner in connection with a petition seeking the re-
5 turn of, or rights of access to, a child located in the
6 United States, pursuant to this Act.

7 “(2) Petitioners may be required to bear the
8 costs of legal counsel or advisors, court costs in-
9 curred in connection with their petitions (other than
10 petitions described in paragraph (1)) and travel
11 costs for the return of the child involved and any ac-
12 companying persons, except as provided in para-
13 graphs (3) and (4).”; and

14 (3) in paragraph (3), as so redesignated—

15 (A) by striking “paragraph (3)” and in-
16 serting “paragraph (4)”; and

17 (B) by inserting “(other than in connection
18 with a petition described in paragraph (1))”
19 after “or court costs”.

20 (d) FEDERAL JUDICIAL CENTER.—Section 620 of
21 title 28, United States Code, is amended by adding at the
22 end the following:

23 “(c) CONTINUING EDUCATION AND TRAINING PRO-
24 GRAMS.—The Center shall include in its continuing edu-
25 cation and training programs, including the training pro-



1 grams for newly appointed judges, information on the
2 Hague Convention on the Civil Aspects of International
3 Child Abduction, the International Child Abduction Rem-
4 edies Act, the International Parental Kidnapping Crime
5 Act, and other Federal statutes pertaining to parental kid-
6 napping within the jurisdiction of the Federal courts.”.

7 **SEC. 7. REPORTS RELATING TO INTERNATIONAL CHILD AB-**
8 **DUCTION.**

9 (a) REPORT ON PROGRESS IN NEGOTIATING BILAT-
10 ERAL TREATIES WITH NON-HAGUE CONVENTION COUN-
11 TRIES.—The Secretary of State shall prepare and submit
12 to the Congress an annual report on progress made by
13 the United States in negotiating and entering into bilat-
14 eral treaties (or other international agreements) relating
15 to international child abduction with countries that are not
16 contracting parties to the Hague Convention on the Civil
17 Aspects of International Child Abduction. The Secretary
18 of State shall include in the report the number of child
19 abductions in countries that are not such contracting par-
20 ties.

21 (b) REPORT ON ENFORCEMENT OF SECTION 1204 OF
22 TITLE 18, UNITED STATES CODE.—The Attorney Gen-
23 eral, in consultation with the Secretary of State, shall pre-
24 pare and submit to the Congress an annual report that
25 contains a description of the status of each case involving



1 a request during the preceding year for extradition to the
2 United States of an individual alleged to have violated sec-
3 tion 1204 of title 18, United States Code.

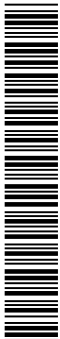
4 **SEC. 8. SUPPORT FOR UNIFORM CHILD CUSTODY JURIS-**
5 **DICTION AND ENFORCEMENT ACT.**

6 From amounts made available to carry out this sec-
7 tion, the Attorney General shall support, directly or
8 through grants and contracts, the adoption and implemen-
9 tation by the States of the Uniform Child Custody Juris-
10 diction and Enforcement Act, as adopted by the National
11 Conference of Commissioners on Uniform State Laws (in
12 this section referred to as the “UCCJEA”). The support
13 provided under this section shall include the following ac-
14 tivities:

15 (1) Activities to promote the adoption of the
16 UCCJEA by States that have not yet adopted it.

17 (2) Activities to provide training to lawyers and
18 to judges and other appropriate public officials to
19 ensure that the UCCJEA is implemented effectively
20 and uniformly throughout the United States.

21 (3) Activities to provide guidance and funding
22 to States to facilitate and expedite the enforcement
23 by those States of the custody and visitation provi-
24 sions of the UCCJEA.



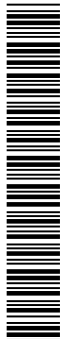
1 **SEC. 9. USE OF SUPERVISED VISITATION CENTERS UNDER**
2 **THE SAFE HAVENS FOR CHILDREN PILOT**
3 **PROGRAM IN SITUATIONS INVOLVING THE**
4 **RISK OF PARENTAL KIDNAPPING.**

5 Section 1301(a) of the Violence Against Women Act
6 of 2000 (42 U.S.C. 10420(a)) is amended by striking “or
7 stalking” and inserting “stalking, or the risk of parental
8 kidnapping”.

9 **SEC. 10. DISCLOSURE OF TAXPAYER IDENTITY INFORMA-**
10 **TION TO NATIONAL CENTER FOR MISSING**
11 **AND EXPLOITED CHILDREN AND DEPART-**
12 **MENT OF STATE.**

13 (a) IN GENERAL.—Subsection (m) of section 6103 of
14 the Internal Revenue Code of 1986 (relating to disclosure
15 of taxpayer identity information) is amended by adding
16 at the end the following new paragraph:

17 “(8) REQUESTS FROM THE NATIONAL CENTER
18 FOR MISSING AND EXPLOITED CHILDREN OR THE
19 SECRETARY OF STATE.—Upon written request by
20 the National Center for Missing and Exploited Chil-
21 dren or the Secretary of State, the Secretary may
22 disclose the mailing address and any business ad-
23 dress of any taxpayer or dependent thereof pursuant
24 to section 404 of the Missing Children’s Assistance
25 Act, for use only by the National Center for Missing
26 and Exploited Children or the Department of State,



1 as the case may be, in locating and recovering miss-
2 ing and exploited children.”.

3 (b) SAFEGUARDS.—Paragraph (4) of section 6103(p)
4 of such Code (relating to safeguards) is amended—

5 (1) by striking “(16) or” and inserting “(16),
6 or”,

7 (2) by inserting “or in subsection (m)(8)” after
8 “(20)” each place it occurs, and

9 (3) by “or (7) of subsection (m)” and inserting
10 “(7), or (8) of subsection (m)”.

11 (c) CRIMINAL PENALTY FOR UNAUTHORIZED DIS-
12 CLOSURE OF INFORMATION.—Paragraph (2) of section
13 7213(a) of such Code (relating to State and other employ-
14 ees) is amended by striking “or (7)” and inserting “(7),
15 or (8)”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to requests made after the date
18 of the enactment of this Act.

19 **SEC. 11. SUPPORT FOR INCREASED U.S. CONTRIBUTION TO**
20 **HAGUE PERMANENT BUREAU.**

21 (a) FINDINGS.—The Congress finds as follows:

22 (1) The problem of international child abduc-
23 tion is complex, frustrating, and growing, with more
24 than 16,000 reported cases in the past two decades
25 according to the Department of State, and many



1 more unreported cases according to the National
2 Center for Missing and Exploited Children
3 (NCMEC).

4 (2) Congress has listened to horror stories from
5 countless “left-behind” American parents struggling
6 to retrieve their children who have been taken
7 abroad by an abducting parent, enforce orders from
8 the courts of other countries directing the return of
9 their children, or even simply to gain access to their
10 children who are being detained abroad.

11 (3) There is an international treaty relating to
12 the prevention of international child abduction, the
13 Convention on the Civil Aspects of International
14 Child Abduction, signed by the United States and 73
15 additional countries.

16 (4) There is wide disparity and inconsistency in
17 the application of the treaty by member countries.

18 (5) If the United States is to truly address this
19 serious problem, the international body, The Hague
20 Conference on Private International Law, which ad-
21 ministers and oversees this treaty, must be strength-
22 ened and made more viable.

23 (6) If the United States is to address the heart-
24 rending pain of so many left-behind parents, we
25 need to build bridges to those parts of the world



1 that are not yet parties to the current treaty, and
2 we must make those countries that are signatories
3 to the treaty better able to deal with the complex-
4 ities of the challenge and ensure that more children
5 come home.

6 (7) In an effort to address this problem more
7 aggressively and effectively, the International Centre
8 for Missing and Exploited Children (ICMEC), the
9 privately funded international affiliate of NCMEC,
10 recently entered into a formal Memorandum of
11 Agreement with The Hague Conference on Private
12 International Law, which oversees a number of pri-
13 vate international law agreements, including the
14 Convention on the Civil Aspects of International
15 Child Abduction.

16 (8) Through that Memorandum of Agreement,
17 ICMEC will seek to generate private sector revenues
18 and support in order to improve the functioning of
19 the Convention on the Civil Aspects of International
20 Child Abduction, including establishing a new Inter-
21 national Training Institute for judges and other
22 practitioners, and undertaking an outreach effort
23 with the Islamic world on these issues.



1 (9) ICMEC has conferred with leaders around
2 the world on how best to strengthen the treaty and
3 ensure its more effective implementation.

4 (10) ICMEC has concluded that an integral
5 part of the current problem is that The Hague
6 budget includes two parts:

7 (A) A core budget based on a formula that
8 supports basic functions and operations.

9 (B) A supplementary budget that the
10 Hague Permanent Bureau must raise apart
11 from its formula appropriations.

12 (11) The core budget is relatively small and
13 thus most of the activities necessary to address the
14 inconsistencies and problems regarding the Conven-
15 tion on the Civil Aspects of International Child Ab-
16 duction are dependent upon supplemental funds.

17 (12) The Permanent Bureau at The Hague
18 must either request additional funds from member
19 countries or be dependent upon nongovernmental or-
20 ganizations like ICMEC to generate additional re-
21 sources.

22 (13) At the April 1, 2003, meeting at The
23 Hague of the Special Commission on General Affairs
24 and Policy, three member countries (the United
25 Kingdom, Canada, and Australia) expressed support



1 for a fundamental shift in fiscal policy, that is by re-
2 examining the basic funding formula and increasing
3 the core budget so that the Permanent Bureau is
4 able to undertake the vital reforms necessary as part
5 of its core operations.

6 (14) Although this effort would increase the
7 amount of the United States contribution required
8 to support the Permanent Bureau at The Hague
9 each year, it is central to addressing the complex,
10 frustrating, problem of international child abduction.

11 (b) SUPPORT FOR INCREASED U.S. SUPPORT FOR
12 HAGUE PERMANENT BUREAU.—The Congress expresses
13 its support for increasing the United States contribution
14 to the Permanent Bureau at The Hague to provide in-
15 creased resources for the prevention of international child
16 abduction and other critical activities of the Bureau,
17 including—

18 (1) to address the inconsistencies and lack of
19 uniformity in the implementation of the Convention
20 on the Civil Aspects of International Child Abduc-
21 tion, signed at The Hague on October 25, 1980, in-
22 cluding the establishment of a training institute;

23 (2) to establish guides of good practice for
24 member countries in addressing the vexing problems



1 of access and enforcement of orders relating to
2 international child abduction; and
3 (3) to encourage more countries, from all re-
4 gions of the world, to become parties to the Conven-
5 tion on the Civil Aspects of International Child Ab-
6 duction.

